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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,591	10/28/2001	Gerald R. Black		8162

7590 02/24/2005
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EXAMINER

CALLAHAN, PAUL E

ART UNIT PAPER NUMBER

2137

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,591

Applicant(s)

BLACK

Examiner

Paul Callahan

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-17 are pending in this application and have been examined.

Drawings

2. The drawings are objected to because there are no reference numerals identifying the individual elements shown in any drawing excepting Figures 3A and 3B. The Specification lacks any reference to the numbers used to label the elements of Figures 3A and 3B. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 7, and 13 each contain the phrases: "routine computer usage" and "Seamless." The terms are relative terms that render the claims indefinite. The terms are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Claims 2-6, 8-12, and 14-17 are dependent on claims 1, 7, and 13 and are rejected on the same basis.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1, 3-7, 9-14, 16, and 17 are rejected under 35 U.S.C. 102(a) as being anticipated by Hsu et al., US 6,182,221.

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As for Claims 1, 7, and 13, Hsu teaches a computer network (abstract) comprising: a host processor (fig. 1B item 10, fig. 2 item 20); and a plurality of computing devices (fig. 4 item 14), at least one of the computing devices being remote from the host processor (fig. 1B items 14, 19), the at least one of the computing devices being handheld and portable (fig. 1B items 14, 19), the at least one of the computing devices enabling capture by at least one biometric sensor of a user biometric image of a finger, thumb, or palm (fig. 1B item 14), the at least one of the computing devices providing authentication of a user prior to responding to user access to network data (col. 2 lines 40-50), the authentication being biometric authentication (col. 3 lines 40-50), placement of the biometric sensor enabling capture of the user biometric image that becomes available at continual intervals during routine computer usage (fig. 1B item 14), the capture of the user biometric image being incidental to routine computer usage (col. 3 lines 45-67), the capture of the user biometric image being seamless and incidental to the data request from the at least one of the computing devices to the host processor enabling user identity authentication with user request to access network data (col. 3 lines 45-67).

As for Claims 3, 9, and 16, Hsu teaches the computer network of Claim 1, wherein the biometric sensor is a fingerprint sensor disposed on a side portion of the at least one of the computing devices so as to capture a print image of a user thumb (fig. 1B item 14)

As for Claims 4, 10, and 17, Hsu teaches the computer network of Claim 1, wherein the biometric sensor is a fingerprint sensor disposed on a back surface of the at least one of the computing devices so as to capture a print image of a user index finger (fig. 1A item 16).

As for Claims 5, 11, and 14, Hsu teaches the computer network of Claim 1, wherein access to network data is enabled whenever the captured print image matches a reference print image of an authorized user (col. 3 lines 45-67).

As for Claims 6 and 12, Hsu teaches the computer network of Claim 1, wherein the at least one of the computing devices includes means to enable the host processor to determine if the computing device is Counterfeit (col. 2 lines 35-42, col. 7 lines 45-62).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 8, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu as applied to claims 1, 7, and 13 above, and Borza, US 6,076,167.

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Hsu teaches the computer network of Claims 1, 7, and 13, but fails to teach at least one of the computing devices includes a second biometric sensor. Borza teaches this feature (fig. 8a, 8b). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Hsu. it would have been desirable to do so as this would increase the fidelity of authentication of users via use of more than one biometric measurement.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Caldwell, can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is: (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



**ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER**

2/20/05

